

Crown Pastoral Land Tenure Review

Lease name: MT ASPIRING STATION

Lease number: PO 231

Substantive Proposal - Part 4

The report attached is released under the Official Information Act 1982.

January

11

Appendix 7: Grazing Concession Three (GC3) – Upper Matuki Faces

Concession number: _____

DATED _____

Between

MINISTER OF CONSERVATION
("the Grantor")

and

MT ASPIRING COMPANY LIMITED
("the Concessionaire")

GRAZING CONCESSION
UNDER CROWN PASTORAL LAND ACT 1998



Department of Conservation
Te Papa Atawhai

THIS LICENCE is made this day of

PARTIES:

1. **MINISTER OF CONSERVATION**, ("the Grantor")
2. **MT ASPIRING COMPANY LIMITED** ("the Concessionaire")

BACKGROUND

- A. The Grantor manages the Land described in Schedule 1.
- B. Sections 66 and 68 of the Crown Pastoral Land Act 1998 authorise the Grantor to grant, under section 17Q(1) of the Conservation Act 1987 or section 59A of the Reserves Act 1977 (whichever is relevant in the circumstances), a Concession for a Concession Activity to be carried out on the Land.
- C. The Concessionaire wishes to carry out the Concession Activity on the Land subject to the terms and conditions of this Document.

OPERATIVE PARTS

TERMS AND CONDITIONS

1.0 DEFINITIONS AND INTERPRETATION

1.1 In this Document, unless the context otherwise requires:

“**Access**” means the right, in common with others, to pass and repass over the Land and any roads of the Grantor for ingress to and egress from the Land as is reasonably necessary for the Concessionaire to exercise its rights under this Licence.

“**Administration Fee**” means the amount specified in Item 6(b) of Schedule 1 and is the annual fee for administering the Concession imposed by the Grantor under section 60D of the Conservation Act 1987. It includes any variation in that amount following a Concession Fee Review.

“**Background**” means the matters referred to under the heading ‘Background’ on page 1 of this Document.

“**Concession**” means a concession as defined in section 2 of the Conservation Act 1987.

“**Concessionaire**” includes the Concessionaire’s successors, assigns, executors, and administrators.

“**Concession Activity**” means the use of the Land for purposes of the activity carried out by the Concessionaire and specified in Item 2 of Schedule 1.

“**Concession Fee**” means the amount specified in Item 6(a) of Schedule 1 and charged by the Grantor for the Concessionaire’s right to carry out the Concession Activity on the Land. It includes any variation in that amount following a Concession Fee Review. It also includes, where relevant, the amount which the parties agree to be the new Concession Fee on a renewal of the Document.

“**Concession Fee Payment Date**” means the date specified in Item 7 of Schedule 1 on which the Concession Fee falls due for payment.

“**Concession Fee Review**” means a review of the Concession Fee determined in accordance with clause 6 of this Document.

“Concession Fee Review Date” means the date specified in Item 9 of Schedule 1 on which the Concession Fee Review occurs being at 3 year intervals calculated from the date of commencement of the term of this Document; and includes any additional dates inserted into Item 9 of Schedule 1 following a renewal of this Document.

“Conservation Area” has the same meaning as “Conservation area” in section 2 of the Conservation Act 1987.

“Director-General” means the Director-General of Conservation.

“Document” means this Licence and any subsequent amendments and all schedules, annexures, and plans attached to it.

“Final Expiry Date” means the date specified in Item 5 of Schedule 1.

“Land” means a Conservation Area or a Reserve (whichever is relevant in the circumstances) being the area more particularly described in Item 1 of Schedule 1.

“Licence” for purposes of this Document is the Licence granted under this Document by the Grantor to the Concessionaire under section 17Q(1) of the Conservation Act 1987 or section 59A of the Reserves Act 1977 (whichever is relevant in the circumstances).

“Penalty Interest Rate” means the rate specified in Item 8 of Schedule 1.

“Renewal Date” means the date specified in Item 4(a) of Schedule 1.

“Renewal Period” means the period specified in Item 4(b) of the Schedule 1.

“Reserve” has the same meaning as “reserve” in section 2 of the Reserves Act 1977.

“Structure” includes a bridge, a culvert, and a fence.

“Term” means the period of time specified in Item 3 of Schedule 1 during which this Document operates. It includes, where relevant, any period of renewal of the Term.

“Working Day” means the period between any one midnight and the next excluding Saturdays, Sundays and Statutory holidays in the place where the Concession Activity is being carried out.

1.2 In this Document unless the context otherwise requires:

- (a) a reference to a party is a reference to a party to this Document;
- (b) schedules and annexures form part of this Document and have effect accordingly;
- (c) words appearing in this Document which also appear in Schedule 1 mean and include the details appearing after them in that Schedule;
- (d) a provision of this Document to be performed by two or more persons binds those persons jointly and severally;
- (e) words in a singular number include the plural and vice versa;
- (f) words importing a gender include other genders;
- (g) references to a statute or statutory provision, or order or regulation made under it, include that statute, provision, or regulation as amended, modified, re-enacted or replaced from time to time whether before or after the date of this Document;
- (h) where the Grantor's consent or approval is expressly required under a provision of this Document, the Concessionaire must seek the consent or approval of the Grantor for each separate occasion it is required notwithstanding that the Grantor has granted consent or approval for a like purpose on a prior occasion.

1.3 Words used in the Background to this Document have the same meaning given to them in clause 1.1.

2.0 GRANT OF LICENCE

- 2.1 In exercise of the Grantor's powers under either section 66 or section 68 of the Crown Pastoral Land Act 1998 (whichever is relevant in the circumstances) the Grantor **GRANTS** to the Concessionaire a **LICENCE** under either section 17Q(1) of the Conservation Act 1987 or section 59A of the Reserves Act 1977 (whichever is relevant in the circumstances) to carry out the Concession Activity on the Land subject to the terms and conditions contained in this Document.

3.0 TERM

- 3.1 The Licence is for the Term specified in Item 3 of Schedule 1.
- 3.2 Unless otherwise specified in Items 4 and 5 of Schedule 1, if the Concessionaire has not been in breach of this Document and has given to the Grantor written notice to renew the Document at least three months before the end of the Term, the Grantor will, at the cost of the Concessionaire, renew the Document from the Renewal Date for the next Renewal Period on the following terms:
- (a) the new Concession Fee is to be agreed upon before the end of the Term or, failing agreement, is to be determined as though it were a Concession Fee Review under clause 6;
 - (b) the Concession Fee is to be subject to review during the Renewal Period on each Concession Fee Review Date;
 - (c) the renewed Document is otherwise to be in accordance with and subject to the covenants and agreements expressed and implied in this Document except that the Term of the Document and all renewals, if any, end on the Final Expiry Date;
 - (d) pending the determination of the new Concession Fee, the Concessionaire is to pay the new Concession Fee proposed by the Grantor. Upon determination an appropriate adjustment is to be made to the Concession Fee.

4.0 CONCESSION FEE AND ADMINISTRATION FEE

- 4.1 The Concessionaire must pay to the Grantor in the manner directed by the Grantor on or before the Concession Fee Payment Date specified in Item 7 of Schedule 1:
- (a) the Concession Fee plus GST specified in Item 6(a) of Schedule 1; and
 - (b) the Administration Fee plus GST specified in Item 6(b) of Schedule 1.
- 4.2 If the Concessionaire defaults in payment of the Concession Fee and Administration Fee for 14 days after a Concession Fee Payment Date the Concessionaire is to pay interest on the unpaid Concession Fee and Administration Fee from the Concession Fee Payment Date until the date of payment at the Penalty Interest Rate specified in Item 8 of Schedule 1.
- 4.3 For purposes of clause 6.0, a reference to Concession Fee includes a reference to the Administration Fee.

5.0 OTHER CHARGES

- 5.1 In addition to the Concession Fee and Administration Fee the Concessionaire must pay all rates, levies, taxes, duties, assessments, charges, and other outgoings which may be charged, levied, or reasonably assessed, or which become payable in relation to the Land as a result of the grant of this Licence.

6.0 CONCESSION FEE AND ADMINISTRATION FEE REVIEW

- 6.1 The Grantor will review the Concession Fee and the Administration Fee on the Concession Fee Review Dates.
- 6.2 The Grantor will commence the review not earlier than 3 months before a Concession Fee Review Date and no later than 9 months following the Concession Fee Review Date by giving written notice to the Concessionaire.
- 6.3 The notice must specify the Concession Fee which the Grantor considers to be the market value for the Concession Activity as at the Concession Fee Review Date having regard to the matters specified in section 17Y(2) of the Conservation Act 1987. The notice must also specify the Administration Fee which the Grantor intends to impose until the next Concession Fee Review Date.
- 6.4 If, within 28 days of receipt of the Grantor's notice, the Concessionaire gives written notice to the Grantor that the Concessionaire disputes the proposed new Concession Fee the new Concession Fee is to be determined in accordance with clause 18.
- 6.5 Until determination of the new Concession Fee, the Concession Fee payable by the Concessionaire from the Concession Fee Review Date is to be the Concession Fee payable immediately before the Concession Fee Review Date. On determination of the new Concession Fee an adjustment is to be made and paid, either by the Grantor or by the Concessionaire, whichever is applicable notwithstanding anything in this clause, the new Administration Fee will be payable by the Grantor upon receipt of the notice referred to in clause 6.3.
- 6.6 If the Concessionaire does not give notice to the Grantor under clause 6.4 the Concessionaire will be deemed to have accepted the Concession Fee specified in the Grantor's notice.

7.0 CONCESSION ACTIVITY

- 7.1 The Concessionaire is not to use the Land for any purpose other than the Concession Activity.

8.0 COMPLIANCE

- 8.1 The Concessionaire will comply where relevant:
- (a) with the provisions of any conservation management strategy or conservation management plan under Part IIIA of the Conservation Act 1987 together with any amendment or review of the strategy or plan whether approved before, on, or after the date on which this Document takes effect; and
 - (b) with the Conservation Act 1987, the Reserves Act 1977, the Health and Safety in Employment Act 1992, the Resource Management Act 1991, and any other statute, ordinance, regulation, bylaw, or other enactment affecting or relating to the Land, or affecting or relating to the Concession Activity.

9.0 CONCESSIONAIRE'S STRUCTURES, FACILITIES AND LAND ALTERATIONS

- 9.1 The Concessionaire must not erect or bring on to the Land any Structure, install any facility, or alter the Land in any way without the prior written consent of the Grantor.
- 9.2 The Concessionaire must keep and maintain at the Concessionaire's cost any Structures, facilities and alterations to the Land in good repair.
- 9.3 On expiry or early termination of this Document either as to the whole or any part of the Land, the Concessionaire will not be entitled to compensation for any improvements (including pasture) and any Structures or facilities remaining on the Land are to become the property of the Grantor.
- 9.4 If requested by the Grantor, the Concessionaire must, within such time as the Grantor determines, remove all Structures, facilities or other improvements erected or installed by the Concessionaire and make good at

the Concessionaire's own expense all damage done by the removal and must leave the Land in a clean and tidy condition to the satisfaction of the Grantor.

10.0 PROTECTION OF THE ENVIRONMENT

10.1 Except as approved in writing by the Grantor the Concessionaire will not, whether by act or omission:

- (a) interfere with, remove, damage, or endanger the natural features, indigenous animals and plants, or historic resources on the Land; or
- (b) bring any plants, or animals (other than farm stock described in Item 2 of Schedule 1, farm dogs and horses for purposes of the Concession Activity) on to the Land; or
- (c) deposit on the Land debris, rubbish or other dangerous or unsightly matter, or contaminate any water body on the Land; or
- (d) pile or store materials in any place on the Land where they may obstruct the public or create a nuisance; or
- (e) conduct any noxious, noisome, dangerous or offensive activity on the Land; or
- (f) top-dress, burn, sow seed, or carry out earthworks (including tracking, drainage or ditching) on the Land; or
- (g) disturb or allow stock to disturb any stream or watercourse on the Land; or
- (h) light any fire on the Land.

10.2 The Concessionaire, must at the Concessionaire's expense:

- (a) if required by the Grantor:
 - (i) take all steps necessary to control any pest, insect, or rodent infestation occurring on or emanating from the Land or any Structure or facility on the Land;
 - (ii) engage a pest exterminator approved by the Grantor; and
- (b) comply strictly with the provisions of the Biosecurity Act 1993.

10.3 The Concessionaire must ensure that the Concessionaire's employees, agents, contractors, licensees and invitees comply with the obligations imposed on the Concessionaire under clause 10.

10.4 The Concessionaire may bring firearms on to the Land for use in connection with the Concession Activity and pest control operations.

10.5 The Concessionaire for purposes of the Concession Activity may take onto or use farm vehicles on the Land on existing formed access tracks only.

11.0 HEALTH AND SAFETY

11.1 The Concessionaire is to carry out the Concession Activity on the Land in a safe and reliable manner and must comply with the Health and Safety in Employment Act 1992 and its regulations.

11.2 The Concessionaire must notify the Grantor of any natural events or activities on the Land or the surrounding area which may endanger the public or the environment.

12.0 TEMPORARY SUSPENSION

12.1 The Grantor may suspend this Document:

- (a) if, in the opinion of the Grantor the activities of the Concessionaire, its employees, agents, contractors, licensees or invitees are having or may have an adverse effect on the environment and the Grantor considers that the effect can not be avoided, remedied or mitigated to an extent satisfactory to the Grantor;
- (b) while the Grantor investigates any of the circumstances contemplated by this clause and also while the Grantor investigates any potential breach or possible offence by the Concessionaire related to the Concession Activity under the Conservation Act 1987 or any of the Acts mentioned in the First Schedule of that Act of which the Grantor has become aware.

12.2 The Grantor is not liable to the Concessionaire for any loss sustained by the Concessionaire by reason of a suspension under clause 12.1 including loss of profits.

12.3 During any period of temporary suspension the Concession Fee payable by the Concessionaire is to abate in fair proportion to the loss of use by the Concessionaire of the Land.

13.0 ASSIGNMENT

13.1 The Concessionaire is not to transfer, sublicense, assign, mortgage or otherwise dispose of the Concessionaire's interest under this Document or any part of it without the prior written consent of the Grantor. The Grantor may, in the Grantor's discretion, decline to grant consent under this clause, however consent will not be unreasonably withheld.

13.2 If the Grantor gives consent under this clause the Concessionaire is to remain liable to observe and perform the terms and conditions of this Document throughout the Term and is to procure from the transferee, sublicensee, or assignee a covenant to be bound by the terms and conditions of this Document unless the Grantor otherwise provides in writing.

13.3 The Concessionaire must pay the costs reasonably incurred by the Grantor incidental to any application for consent, whether or not such consent is granted.

13.4 Any change in the shareholding of the Concessionaire altering the effective control of the Concessionaire will be deemed to be an assignment and will require the consent of the Grantor.

14.0 TERMINATION

14.1 The Grantor may terminate this Document by notice in writing to the Concessionaire if:

- (a) the Concession Fee or the Administration Fee or any other money payable to the Grantor under this Document is in arrears and unpaid for 14 days after any of the days appointed for payment whether it has been lawfully demanded or not; or
- (b) the Concessionaire breaches any terms of this Document; and
 - (i) the Grantor has notified the Concessionaire in writing of the breach; and
 - (ii) the Concessionaire does not rectify the breach within 28 days of receiving notification; or
- (c) the Concessionaire ceases to conduct the Concession Activity; or
- (d) the Concessionaire is convicted of an offence, related to the Concession Activity, under the Conservation Act 1987 or any of the Acts listed in the First Schedule to that Act; or the Resource Management Act 1991; or the Biosecurity Act 1993; or the Health and Safety in Employment Act 1992; or
- (e) the Concessionaire is dissolved; or enters into any composition with or assignment for the benefit of its creditors; or is adjudged bankrupt; or being a company has a receiver appointed; or is put into liquidation; or is placed under statutory management; or has a petition for winding up

presented against it; or is otherwise unable to pay its debts as they fall due; or the estate or interest of the Concessionaire is made subject to a writ of sale or charging order; or the Concessionaire cease to function or operate.

14.2 If the Grantor terminates the Document under this clause 14 all rights of the Concessionaire are to cease absolutely; but the Concessionaire is not to be released from any liability to pay the Concession Fee or Administration Fee or other monies up to the date of termination or for any breach of any term up to the date of termination.

14.3 The Grantor may exercise the Grantor's right under this clause to terminate the Concession notwithstanding any prior waiver or failure to take action by the Grantor or any indulgence granted by the Grantor for any matter or default.

15.0 INDEMNITIES AND INSURANCE

15.1 The Concessionaire will indemnify and keep indemnified the Grantor against all claims made by any person in respect of any injury, loss, or damage, including fire, caused or suffered as a result of or arising out of any acts or omissions of the Concessionaire, its employees, contractors, or invitees or otherwise caused as a result of its use of the Land or the Concessionaire's carrying out of the Concession Activity on the Land.

15.2 This indemnity is to continue after the expiry or other determination of this Document in respect of those acts or omissions occurring or arising before its expiry or determination.

15.3 Without prejudice to or in any way limiting its liability under clause 15.1 the Concessionaire must take out and keep in force during the Term if required by the Grantor:

- (a) a policy of public liability insurance against liability for loss, damage or injury from any one single accident or event arising out of its conduct of the Concession Activity on the Land and covering:
 - (i) general indemnity for a sum not less than the amount specified in Item 10 of Schedule 1; and
 - (ii) Forest and Rural Fires Act 1977 extension for a sum not less than the amount specified in Item 11 of Schedule 1; and
- (b) statutory liability insurance for the amount specified in Item 12 of Schedule 1; and
- (c) such other policy or policies of insurance against any other liability and for such other sums which the Grantor specifies in Item 13 of Schedule 1.

15.4 With respect to clause 15.3 the Concessionaire must, before commencing the Concession Activity and on each renewal of insurance, provide the Grantor with certificates of insurance issued by the Concessionaire's insurer confirming the nature, amount and duration of cover.

16.0 ENVIRONMENTAL MONITORING

16.1 The Concessionaire must, during the Term, if required in writing by the Grantor, pay to the Grantor the annual environmental monitoring contribution specified in Item 14 of Schedule 1 to enable the Grantor to design and undertake a programme to monitor the environmental effects of the Concessionaire's conduct of the Concession Activity on the Land.

17.0 FORCE MAJEURE

17.1 Neither party will be liable to the other party for any delay in performance of, or failure to perform, its obligations (other than a payment of money) under this Document as a result of any cause beyond its reasonable control.

18.0 DISPUTE RESOLUTION AND ARBITRATION

18.1 If any dispute arises between the parties in connection with this Document, the parties must, without prejudice to any other rights they have under this Document, attempt to resolve the dispute by negotiation or other informal dispute resolution techniques agreed by the parties.

18.2 If the dispute is not capable of resolution by agreement within 14 days of written notice by one party to the other (or such further period as the parties may agree to in writing) either party may refer the dispute to mediation with a mediator agreed between the parties.

18.3 If the parties do not agree on a mediator, the President of the local branch of the New Zealand Law Society in the region in which the Land is situated is to appoint the mediator.

18.4 In the event that the dispute is not resolved by mediation within 2 months of the date of referral to mediation the parties agree that the provisions of the Arbitration Act 1996 will apply.

18.5 Notwithstanding anything in the Arbitration Act 1996, if the parties do not agree on an arbitrator within 10 working days of a party giving written notice of the requirement to appoint an arbitrator the President of the local of branch of the New Zealand Law Society in the region in which the Land is situated is to appoint the arbitrator. In either case the arbitrator must not be a person who has participated in an informal dispute resolution procedure in respect of the dispute.

18.6 All arbitration proceedings are to take place in New Zealand and to be governed by New Zealand law.

18.7 The parties agree that the results of any arbitration are to be binding on the parties.

19.0 NOTICES

19.1 Any notice to be given under this Document by one party to the other is to be in writing and made by personal delivery, by pre-paid post or by facsimile addressed to the receiving party at the address or facsimile number set out in Item 15 of Schedule 1.

19.2 A notice given in accordance with clause 19.1 will be deemed to have been received:

- (a) in the case of personal delivery, on the date of delivery;
- (b) in the case of pre-paid post, on the third working day after posting;
- (c) in the case of facsimile, on the Working Day on which it is dispatched or, if dispatched after 5.00pm on a Working Day, or if dispatched on a non-working day, on the next Working Day after the date of dispatch.

20.0 RELATIONSHIP OF PARTIES

20.1 Nothing expressed or implied in this Document shall be construed as:

- (a) conferring on the Concessionaire any right of exclusive occupation or use of the Land;
- (b) derogating from the rights of the Grantor and the public to have access across the Land;
- (c) preventing the Grantor from granting other concessions (except a grazing licence) to other persons.

20.2 The Concessionaire acknowledges that the Land is open to the public for access and that the Grantor may close public access during periods of high fire hazard.

21.0 COSTS

21.1 The Concessionaire must pay the Grantor's legal costs and expenses associated with preparing and signing this Document or any extension or variation to it.

21.2 The Concessionaire must pay in full immediately and on demand all costs and fees (including solicitor's costs and the fees of debt collecting agencies engaged by the Grantor) arising out of and associated with steps taken by the Grantor to enforce or attempt to enforce the Grantor's rights and powers under this Concession including the right to recover outstanding money owed to the Grantor.

22.0 OFFENCES

22.1 Where any breach of this Concession by the Concessionaire also constitutes an offence under the Conservation Act 1987 or any of the Acts listed in the First Schedule to that Act:

- (a) no waiver or failure to act by the Grantor under this Document is to preclude the Grantor from prosecuting the Concessionaire; and
- (b) no failure by the Grantor to prosecute the Concessionaire is to preclude the Grantor from exercising the Grantor's remedies under this Document; and
- (c) any action of the Grantor in prosecuting the Concessionaire is not to preclude the Grantor from exercising the Grantor's remedies under this Document.

23.0 SPECIAL CONDITIONS

23.1 Special conditions relating to this Document are set out in Schedule 2.

23.2 The standard conditions contained in this Document must be read subject to any special conditions.

Signed by :

for and on behalf of
the Minister of Conservation
pursuant to a written delegation (or designation as the case may be)
in the presence of :

Witness _____

Occupation _____

Address _____

Signed by :

as Concessionaire
in the presence of :

Witness _____

Occupation _____

Address _____

SCHEDULE 1

1. **Land:** Shown on the Designations Plan as a portion of “CA3”, marked “Grazing Concession 3” and shaded pink being approximately 95 ha. *(see definition of Land in clause 1.1)*
2. **Concession Activity:** Ewes, lambs, rams and hoggets of a breed other than merinos may graze on the Land. *(see definition of Concession Activity in clause 1.1)*
3. **Term:** 30 years commencing on the date of settlement of the tenure review. *(see clause 3)*
4. (a) **Renewal Date:** NA *(see clause 3.2)*
 (b) **Renewal Period:** NA *(see clause 3.2)*
5. **Final Expiry Date:** *(see clause 3.2)*
6. (a) **Concession Fee:** \$100. A nominal concession fee only is applicable as the concession is to provide for minor stock incursion within the unfenced conservation land.
 (b) **Administration Fee:** \$100 per annum + GST *(see clause 4)*
7. **Concession Fee Payment Date:** *(see clause 4)*
 On or before the date specified on the invoice generated by the Grantor
8. **Penalty Interest Rate:** *(see clause 4.2)*
 Double the Grantor’s bank’s current highest 90 day bank bill buy rate
9. **Concession Fee Review Date:** Every three year anniversary from the date of commencement for the term of the Concession. *(see clause 6)*
10. **Public Liability General Indemnity Cover:** *(see clause 15.3)*
 for \$1,000,000.00
11. **Public Liability Forest & Rural Fire Extension:** *(see clause 15.3)*
 for \$1,000,000.00
12. **Statutory Liability Insurance:** *(see clause 15.3)*
 Amount \$250,000.00
13. **Other Types of Insurance:** *(see clause 15.3)*
Amounts Insured for Other Types of Insurances: *(see clause 15.3)*
 Amount
14. **Environmental Monitoring Contribution:** \$0 _____ *(see clause 16)*
15. **Address for Notices (including facsimile number):** *(see clause 19)*
 - (a) Grantor: C/- PO Box 5244, Dunedin. (03) 4778 626
 - (b) Concessionaire: Mt Aspiring Co Ltd, C/- John and Sue Aspinall, P.O. Box 94, Wanaka. (03)

SCHEDULE 2

Special Conditions

Land Management

1. The Concessionaire must not break up or crop any part of the Land without the prior written consent of the Grantor.
2. Ewes, lambs, rams and hoggets only are permitted within the Land.
- 2.1 While the Grantor acknowledges that despite the best efforts of the Concessionaire, some 'sheep drift' will occur onto the Land, the Concessionaire is to take all practical steps to discourage sheep from doing so.
3. The Concessionaire may use a helicopter on the Land for purposes consistent with this Concession Activity.

Fencing

4. The Grantor is not to be called upon at any time to contribute to the costs of work on a fence as that term is defined in the Fencing Act 1978 between the Land and any adjoining land of the Grantor.
5. The Concessionaire must keep and maintain at the Concessionaires cost any fences, stiles or gates in good repair.

Hunting

6. The Grantor reserves the right to authorise hunters who hold a valid hunting permit issued by the Department of Conservation to hunt on the Land.

Inspection

7. The Grantor reserves the right for the Grantor's employees or agents to enter on the Land at any time for the purpose of inspecting the Land.

Management Prescription

8. The parties will comply with the management prescription document attached as schedule 3.

Share Transfers

9. Clause 13.4 is modified to provide for share changes within the Aspinall family without the consent of the Grantor.

New Concession

10. At the end of this concession the MOC will consider the need for a new concession, depending on the requirement to formally recognise sheep drift onto conservation land.

SCHEDULE 3

MANAGEMENT PRESCRIPTION DOCUMENT FOR MT ASPIRING STATION – WEST MATUKITUKI FACES - CONSERVATION AREA GRAZING CONCESSION

As this concession is for a term exceeding 10 years a management prescription document is required. A management prescription in the concession conditions provides, over the full term:

1. The specific goals of management of the land consistent with the nature of the concession activity (covering vegetation, landscape, historic, public recreation, soil and water).
2. A description of how the goals are to be met.
3. A detailed description of the type and condition of conservation resources at the commencement of the concession.
4. A description of the monitoring programme (of activity effects) to be carried out (for vegetation).
5. A specification concerning grazing systems, including identification of vegetation trends and how that will affect the grazing systems.

This management prescription document shall apply until it is reviewed ten years from the date of commencement of the concession and every ten years thereafter.

1. The goal of the concession is to recognise that as it is impractical to construct a boundary fence, some minor stock trespass onto conservation land will occur. This concession is purely to formalise the expected stock drift and avoid future issues.

(a) Vegetation

To manage the vegetation within the concession area to maintain the cover of tussock and other native flora by preventing burning and minimising stock use.

(b) Landscape

The minor stock incursion will have no impact on the landscape character of the area.

(c) Recreation

The public will have unfettered access to the area in line with the much larger adjoining conservation area.

(d) Soil and Water

The minor stocking expected on the concession area is not expected to affect soil and water values.

2. A description of how the goals are to be met.

These goals are to be met through monitoring of the area from time to time. Liaison with the Concessionaire and the public using the area will be important.

- (a) Management changes to reduce grazing levels and will be considered, should that be necessary following field observations by the Grantor or Concessionaire.

Sheep only are permitted within the land.

The type of stock has been limited to recognise the tendency for some stock types to wander up to higher altitudes. Crossbred sheep do not tend to wander far from oversown pastures.

- (b) Sign posting indicating conditions pertaining to public use will be erected on the proposed easements through the adjoining freehold land.

3. Description and condition of conservation resources present.

Landscape:

The whole of the Matukituki River West Branch is assessed as having significant inherent landscape values. This area (contained within the concession) forms part of a spectacular and highly scenic landscape. This striking and visually impressive montane landscape comprises spectacular physical features including a glaciated trough landscape and landforms, and fluvial-glacial valley floor landforms and features. Natural vegetation patterns and features remain dominant and appear natural despite considerable modification on the valley floor and lower slopes.

Vegetation:

Between c. 900 – 1000 m, depending on steepness and brokenness of terrain, an abrupt vegetation change to introduced pasture grasses demarcates the extent of pastoral development. It is approximately along this edge that this grazing concession is placed. The band of indigenous vegetation above this point is described in general terms as follows:

At c. 1400 m narrow-leaved tussock (*Chionochloa rigida* subsp. *rigida*) is present along with an array of shrubs and large herbs. These include turpentine shrub (*Dracophyllum uniflorum*), *D. kirkii*, *Hebe hectorii*, *Coprosma fowerakeri*, *C. cheesemanii*, creeping mapou (*Myrsine nummularia*), cottonwood (*Ozothamnus vauvilliersii*), *Astelia nervosa*, *A. petriei*, *Aciphylla divisa* and *Celmisia verbascifolia*. *Hebe hectorii* and *H. odora* form narrow shrubby belts along seeps. This community is widespread and extends well down slopes.

As the terrain steepens, numerous small seepages coalesce into small cascades, the sides of which are festooned with *Celmisia verbascifolia*, Mt Cook lily (*Ranunculus lyallii*), yellow snow groundsel (*Dolichoglottis lyallii*), *Anaphalioides bellidioides*, *Hebe pauciramosa* and *Astelia petriei*.

Mid-slope rock outcrops and dry spur crests have a more dry-tolerant flora including mountain flax (*Phormium cookianum*), *Coprosma serrulata*, *C. atropurpurea*, *Blechnum montanum*, *Leucopogon fraseri*, *Lycopodium fastigiatum*, *Celmisia gracilentata*, *Gaultheria crassa*, *Pentachondra pumila* and *Gentianella* sp. Ravines at c. 1000 m have dense riparian shrublands dominated by turpentine shrub and *Hebe subalpina* along with cottonwood, mountain flax, *Coprosma ciliata*, *C. rugosa*, native broom, koromiko (*Hebe salicifolia*), *Olearia arborescens*, feathery tutu (*Coriaria plumosa*), prickly shield fern, and *Chionochloa conspicua*.

4. Description of a monitoring programme to be established for vegetation condition and soil and water values

Monitoring will be limited to periodic inspections by staff, consultation with the concessionaires and observations by the public.

5. Number of stock and duration permitted to be run on the concession area within the current term of the management prescription document.

No specific stock numbers are specified. The expectation is that low numbers of sheep will graze the concession area. The success of the aims of this concession can be looked at on review and it can be amended via this document if required.

**Appendix 8: Form of Conservation Covenant One (CC1) to be Created –
Landscape**

DATED _____

Between

COMMISSIONER OF CROWN LANDS
Pursuant to Section 80 of the Crown Pastoral Land Act 1998

and

MINISTER OF CONSERVATION
("the Minister")

COVENANT UNDER RESERVES ACT 1977
FOR CROWN PASTORAL LAND ACT 1998 PURPOSES



Department of Conservation
Te Papa Atawhai

THIS DEED of COVENANT is made the day of

BETWEEN **COMMISSIONER OF CROWN LANDS** acting pursuant to section 80
of the Crown Pastoral Land Act 1998

AND **MINISTER OF CONSERVATION**

BACKGROUND

- A. The Commissioner of Crown Lands is deemed for the purposes of section 77 of the Reserves Act 1977 to be the owner of the Land under section 80(5) of the Crown Pastoral Land Act 1998.
- B. The Land contains certain Values specified in Schedule 1.
- C. The parties agree that the Land should be managed so as to preserve the particular Values specified in Schedule 1, and that such purpose can be achieved without the Minister acquiring a fee simple or leasehold interest in the Land.
- D. An approved plan designating the Land as land over which a Covenant under section 77 of the Reserves Act 1977 is to be created has been registered under section 64 of the Crown Pastoral Land Act 1998.
- E. The Commissioner of Crown Lands has agreed to grant the Minister a Covenant over the Land to preserve the particular Values specified in Schedule 1.

OPERATIVE PARTS

In accordance with section 77 of the Reserves Act 1977, and with the intent that the Covenant run with the Land and bind all subsequent Owners of the Land, the Commissioner of Crown Lands and Minister agree as follows:

1. INTERPRETATION

1.1 In this Covenant unless the context otherwise requires:

- “Act” means the Reserves Act 1977.
- “Covenant” means this Deed of Covenant made under section 77 of the Act.
- “Director-General” means the Director-General of Conservation.
- “Fence” includes a gate.
- “Fire Authority” means a Fire Authority as defined in the Forest and Rural Fires Act 1977.
- “Land” means the land described in Schedule 1.
- “Minerals” means any mineral that is a Crown owned mineral under section 2 of the Crown Minerals Act 1991.
- “Minister” means the Minister of Conservation.
- “Natural Water” includes water contained in streams the banks of which have, from time to time, been realigned.
- “Owner” means the person or persons who from time to time is or are registered as the proprietor(s) of the Land.

- “Party” or “Parties”** means either the Minister or the Owner or both.
- “Values”** means any or all of the Land’s natural environment, landscape amenity, wildlife, freshwater life, marine life habitat or historic values as specified in Schedule 1.
- “Working Day”** means the period between any one midnight and the next excluding Saturdays, Sundays, and statutory holidays in the place where the Land is located.

1.2 For avoidance of doubt:

- 1.2.1 the reference to any statute in this Covenant extends to and includes any amendment to or substitution of that statute;
- 1.2.2 clause and other headings are for ease of reference only and are not to be treated as forming any part of the context or to affect the interpretation of this Covenant;
- 1.2.3 words importing the singular number include the plural and vice versa;
- 1.2.4 expressions defined in clause 1.1 bear the defined meaning in the whole of this Covenant including the Background. Where the parties disagree over the interpretation of anything contained in this Covenant and in determining the issue, the parties must have regard to the matters contained in the Background;
- 1.2.5 any obligation not to do anything must be treated to include an obligation not to suffer, permit or cause the thing to be done;
- 1.2.6 words importing one gender include the other gender;
- 1.2.7 the agreements contained in this Covenant bind and benefit the parties and their administrators and executors, successors and assigns in perpetuity;
- 1.2.8 where clauses in this Covenant require further agreement between the parties such agreement must not be unreasonably withheld.

2. OBJECTIVE OF THE COVENANT

- 2.1 The Land must be managed so as to preserve the Values.

3. THE OWNER’S OBLIGATIONS

- 3.1 Unless agreed in writing by the parties, the Owner must not carry out or allow to be carried out on or in relation to the Land:
- 3.1.1 grazing of the Land by livestock;
- 3.1.2 subject to clauses 3.2.1 and 3.2.3, felling, removal or damage of any tree, shrub or other plant;
- 3.1.3 the planting of any species of tree, shrub or other plant;
- 3.1.4 the erection of any Fence, building, structure or other improvement for any purpose;
- 3.1.5 any burning, chemical spraying, top dressing or sowing of seed;
- 3.1.6 any cultivation, earth works or other soil disturbances;
- 3.1.7 any archaeological or other scientific research involving disturbance of the soil;
- 3.1.8 the damming, diverting or taking of Natural Water;

- 3.1.9 any action which will cause deterioration in the natural flow, supply, quantity, or quality of water of any stream, river, lake, pond, marsh, or any other water resource affecting the Land;
- 3.1.10 any other activity which might have an adverse effect on the Values.
- 3.1.11 any prospecting or mining for Minerals, coal or other deposit or moving or removal of rock of any kind on or under the Land;
- 3.1.12 the erection of utility transmission lines across the Land.
- 3.2 The Owner must:
 - 3.2.1 eradicate or control all weeds and pests on the Land to the extent required by any statute; and in particular comply with the provisions of, and any notices given under, the Biosecurity Act 1993;
 - 3.2.2 if it is safe to do so, assist the Fire Authority to extinguish any wildfire upon or threatening the Land;
 - 3.2.3 keep the Land free from exotic tree species;
 - 3.2.4 keep the Land free from rubbish or other unsightly or offensive material arising from the Owner's use of the Land;
 - 3.2.5 subject to consultation between the Owner and the Minister and observance of any reasonable conditions imposed by the Owner, grant to the Minister or authorised agent of the Minister or any employee of the Director-General, a right of access on to the Land, with or without motor vehicles, machinery, and implements of any kind, to examine and record the condition of the Land, or to carry out protection or maintenance work on the Land, or to ascertain whether the provisions of this Covenant are being observed;
 - 3.2.6 keep all Fences on the boundary of the Land in good order and condition and, notwithstanding clause 3.1.4, rebuild or replace all such Fences when reasonably required except as provided in clause 4.2.

4. THE MINISTER'S OBLIGATIONS

- 4.1 The Minister must have regard to the objective specified in clause 2.1 when considering any requests for approval under this Covenant.
- 4.2 The Minister must repair and replace to its former condition any Fence or other improvement on the Land or on its boundary which may have been damaged in the course of the Minister or any person referred to in clause 3.2.5 exercising any of the rights conferred by this Covenant.

5. IMPLEMENTATION OF OBJECTIVES

- 5.1 The Minister may;
 - 5.1.1 provide to the Owner technical advice or assistance as may be necessary or desirable to assist in meeting the objectives specified in clause 2.1;
 - 5.1.2 prepare, in consultation with the Owner, a joint plan for the management of the Land to implement the objective specified in clause 2.1.

6. DURATION OF COVENANT

- 6.1 This Covenant binds the Minister and Owner in perpetuity to the rights and obligations contained in it.

7. OBLIGATIONS ON SALE OF LAND

- 7.1 If the Owner sells, leases, or parts with possession of the Land, the Owner must ensure that the Owner obtains the agreement of the purchaser, lessee, or assignee to comply with the terms of this Covenant, including any agreement by the purchaser, lessee, or assignee to ensure that on any subsequent sale, lease, or assignment, any subsequent purchaser, lessee, or assignee must also comply with the terms of this Covenant including this clause.
- 7.2 If for any reason this Covenant remains unregistered and the Owner fails to obtain the agreement of a purchaser, lessee, or assignee to comply with the terms of this Covenant, the Owner will continue to be liable in damages to the Minister for any breach of the Covenant committed after the Owner has parted with all interest in the Land in respect of which a breach occurs.

8. MISCELLANEOUS MATTERS

8.1 Rights

- 8.1.1 The rights granted by this Covenant are expressly declared to be in the nature of a covenant.

8.2 Trespass Act:

- 8.2.1 Except as provided in this Covenant, the Covenant does not diminish or affect the rights of the Owner to exercise the Owner's rights under the Trespass Act 1980 or any other statute or generally at law or otherwise;
- 8.2.2 For avoidance of doubt these rights may be exercised by the Owner if the Owner reasonably considers that any person has breached the rights and/or restrictions of access conferred by this Covenant.

8.3 Reserves Act

- 8.3.1 Subject to the terms and conditions set out in this Covenant, sections 93 to 105 of the Reserves Act 1977, as far as they are applicable and with the necessary modifications, apply to the Land as if the Land were a reserve.

8.4 Titles

- 8.4.1 This Covenant must be signed by the Commissioner of Crown Lands and the Minister and registered against the Certificate of Title to the Land.

8.5 Acceptance of Covenant

- 8.5.1 The parties agree to be bound by the provisions of this Covenant including during the period prior to the Covenant's registration.

8.6 Fire

- 8.6.1 The Owner must notify, as soon as practicable, the appropriate Fire Authority and the Minister in the event of wild fire threatening the Land;
- 8.6.2 If the Minister is not the appropriate Fire Authority for the Land, the Minister will render assistance to the Fire Authority in suppressing the fire if:
- 8.6.2.1 requested to do so; or
- 8.6.2.2 if there is in place between the Minister and the Fire Authority a formalised fire agreement under section 14 of the Forest and Rural Fires Act 1977.

9. NOTICES

9.1 A notice to be given under this Covenant by one party to the other is to be in writing and made by personal delivery, by pre-paid post, or by facsimile addressed to the receiving party at the address or facsimile number set out in Schedule 1.

9.2 A notice given in accordance with clause 9.1 will be deemed to have been received:

- (a) in the case of personal delivery, on the date of delivery;
- (b) in the case of pre-paid post, on the third Working Day after posting;
- (c) in the case of facsimile, on the day on which it is dispatched or, if dispatched after 5.00pm, on the next day after the date of dispatch.

9.3 The Owner must notify the Minister of any change of ownership or control of all or part of the Land and must supply the Minister with the name and address of the new owner or person in control.

10. DEFAULT

10.1 Where either the Minister or the Owner breaches any of the terms and conditions contained in this Covenant the other party:

10.1.1 may take such action as may be necessary to remedy the breach or prevent any further damage occurring as a result of the breach; and

10.1.2 will also be entitled to recover from the party responsible for the breach as a debt due all reasonable costs (including solicitor/client costs) incurred by the other party as a result of remedying the breach or preventing the damage.

10.2 Should either the Minister or the Owner become of the reasonable view that the other party (the defaulting party) has defaulted in performance of or observance of its obligations under this Covenant then that party (notifying party) may, by written notice:

10.2.1 advise the defaulting party of the default.

10.2.2 state the action reasonably required of the defaulting party to perform or observe in accordance with this Covenant; and

10.2.3 state a reasonable period within which the defaulting party must take action to remedy the default.

11. DISPUTE RESOLUTION PROCESSES

11.1 If any dispute arises between the Minister and the Owner in connection with this Covenant, the parties must, without prejudice to any other rights they may have under this Covenant, attempt to resolve the dispute by negotiation or other informal dispute resolution technique agreed between the parties.

11.2 Mediation

11.2.1 if the dispute is not capable of resolution by agreement within 14 days of written notice by one party to the other (or such further period as the parties may agree to in writing) either party may refer the dispute to mediation with a mediator agreed between the parties;

11.2.2 if the parties do not agree on a mediator, the President of the local branch of the New Zealand Law Society in the region in which the Land is situated is to appoint the mediator.

11.3 Failure of Mediation

11.3.1 in the event that the dispute is not resolved by mediation within 2 months of the date of referral to mediation the parties agree that the provisions in the Arbitration Act 1996 will apply;

11.3.2 notwithstanding anything to the contrary in the Arbitration Act 1996, if the parties do not agree on the person to be appointed as arbitrator, the appointment is to be made by the President of the local branch of the New Zealand Law Society in the region in which the Land is situated;

11.3.3 the parties further agree that the results of arbitration are to be binding upon the parties.

12. JOINT OBLIGATIONS

12.1 The Owner or the Minister may, by mutual agreement, carry out any work or activity or improvements or take any action either jointly or individually to better preserve the Values.

13. SPECIAL CONDITIONS

13.1 Special conditions relating to this Covenant are set out in Schedule 2.

13.2 The standard conditions contained in this Document must be read subject to any special conditions.

Executed as a Deed

Signed by _____ acting under a)
delegation from the Commissioner of Crown Lands)
deemed pursuant to section 80(5) of the Crown Pastoral)
Land Act 1998 to be the Owner of the Land for the)
purposes of section 77 of the Reserves Act 1977)
in the presence of : _____)

Witness: _____

Address : _____

Occupation: _____

Signed by _____ exercising his/her)
powers under section 117 of the Reserves Act 1977)
as designated Commissioner and acting for and on)
behalf of the Minister of Conservation)
in the presence of : _____)

Witness: _____

Address : _____

Occupation: _____

SCHEDULE 1

1. Description of Land

Shaded yellow and labelled "CC1" (approximately 1345 ha) on the Designations Plan.

The covenant in the West branch Matukituki River covers the valley floor and lower hill slopes from around Cascade Hut to Raspberry Flat (including the hill behind Raspberry Flat) on the true right, and all the flats on the true left as far east as the area known as "Hells Gate". In the East Branch Matukituki River it covers the northern end of the flats adjacent to the glacier Burn.

2. Address for Service¹

The address for service (including facsimile number) of the Minister is:

C/- Box 5244
DUNEDIN

Fax (03) 477 8626

The address for service (including facsimile number) of the Owner is:

Mt Aspiring Co Ltd, C/- John and Sue Aspinall, P.O. Box 94, Wanaka. (03)

3. Values of Land to be Preserved

Landscape Values:

The valley as a whole has highly significant visual and scenic values forming part of a grand and spectacular glacial valley close to the main divide. High mountains, dramatic glacial landforms, intact upper level tussock grasslands and herbfields combined with extensive shrublands, bracken, beech forest and the open grass covered valley floor form the key ingredients of this landscape.

The lower slopes and valley floor form a coherent landscape of developed pasture with indigenous vegetation remaining on steep slopes, associated with watercourses, gullies and along the river margin. Natural vegetation patterns and features remain dominant and appear natural despite considerable modification on the valley floor and lower slopes.

The lower valley (below Raspberry Creek) is more modified, and farming patterns such as hay paddocks and shelterbelts are now part of the valley floor landscape.

Vegetation Values:

Outwash fans, particularly those on the true left exhibit a chronological sequence of gravel deposition (terrace formation) with associated vegetation succession. More stable fans show shrubland development with native broom (*Carmichaelia petriei*), matagouri (*Discaria toumatou*), *Coprosma propinqua* and juvenile silver beech (*Nothofagus menziesii*).

Some rocky colluvial fans have regenerating shrublands of high diversity. Common tree and shrubs are kohuhu (*Pittosporum tenuifolium*), broadleaf (*Griselinia littoralis*), *Coprosma propinqua*, *C. rugosa*, *Podocarpus nivalis*, *Corokia cotoneaster*, *Olearia avicenniifolia*, manuka (*Leptospermum scoparium*), porcupine shrub (*Meliclytus alpinus*), mountain wineberry (*Aristotelia fruticosa*), tutu (*Coriaria sarmentosa*) and false beech

¹ State street address not Post Office Box number.

(*Gaultheria antipoda*). A rich understorey of predominantly ferns includes prickly shield fern (*Polystichum vestitum*), thousand-leaved fern (*Hypolepis millefolium*), *Blechnum montanum*, *B. penna-marina*, *B. vulcanicum*, hanging spleenwort (*Asplenium flaccidum*), necklace fern (*A. flabellifolium*) and hound's tongue (*Microsorium pustulatum*). Lianas are also abundant, climbing over and through the shrub canopy. Common species include native jasmine (*Parsonsia heterophylla*), clematis (*Clematis marata*), pohuehue (*Muehlenbeckia australis*) and bush lawyer (*Rubus schmidelioides*).

Some of these shrub and tree species are also present in a narrow, strictly riparian zone, immediately adjoining the Matukituki River. They are supplemented by occasional beech trees, mostly mountain beech (*Nothofagus solandri* var. *cliffortioides*) and silver beech, with *Chionochloa conspicua* and inaka (*Dracophyllum longifolium*).

Silver beech is also widespread as groves and individuals on the fans of the true left of the river. It is associated with occasional Hall's totara (*Podocarpus hallii*) and mountain celery pine (*Phyllocladus alpinus*) with a sparse understorey that includes *Coprosma ciliata*, button fern (*Pellaea rotundifolia*), water fern (*Histiopteris incisa*), *Viola filicaulis*, and the orchids *Chiloglottis cornuta* and *Aporostylis bifolia*.

Rock bluffs on the true left of the river, in the vicinity of the footbridge, support the threatened cress *Pachycladon cheesemani*. At the foot of the bluffs, the locally uncommon shrub kanuka (*Kunzea ericoides*) is present.

SCHEDULE 2

Special Conditions

1. The Minister will pay to the Owner a proportionate share of the following:
 - 1.2 the cost of any work under clause 3.2 if the Minister has first approved the work.
2. The proportionate share payable by the Minister is to be calculated having regard to the purpose of the expenditure with the intent that:
 - 2.1 the Minister will bear the cost of work essential for purposes of landscape/nature /recreation conservation;
 - 2.2 the Owner will bear the cost of work essential for farming purposes;
 - 2.3 when the expenditure is partly for landscape/nature/recreation conservation and partly for farming purposes, the parties will bear the costs equally or in such other proportion as they may agree, and failing agreement, as may be determined under clause 11.
3. Clause 3.1.1 is deleted. Sheep and cattle only may be grazed.
4. Clause 3.1.2 is deleted.
5. Clause 3.1.3 is only to apply to the planting of exotic species or those native plants not found in the district.
6. Nothing in clause 3.1.4 will prohibit the erection of fences and structures that are solely for the purpose of farm related activities.
7. Clause 3.1.5 is deleted.
8. Clause 3.1.6 is deleted with respect to cultivation and soil disturbance normally associated with livestock farming. No new tracks are to be cut other than maintenance, relocation or reinstatement of existing tracks.
9. Clearance of native woody vegetation is not permitted within the areas identified as 1 – 7 on the aerial photo attached.
10. Clause 3.1.11 is modified to allow the removal of floating rocks for the purpose of river control works adjacent to the property. Any removal will be subject to consultation with the Minister.

GRANT of

Correct for the purposes of the
Land Transfer Act 1952

CONSERVATION COVENANT UNDER
SECTION 77 OF THE
RESERVES ACT 1977 FOR
CROWN PASTORAL LAND ACT 1998 PURPOSES

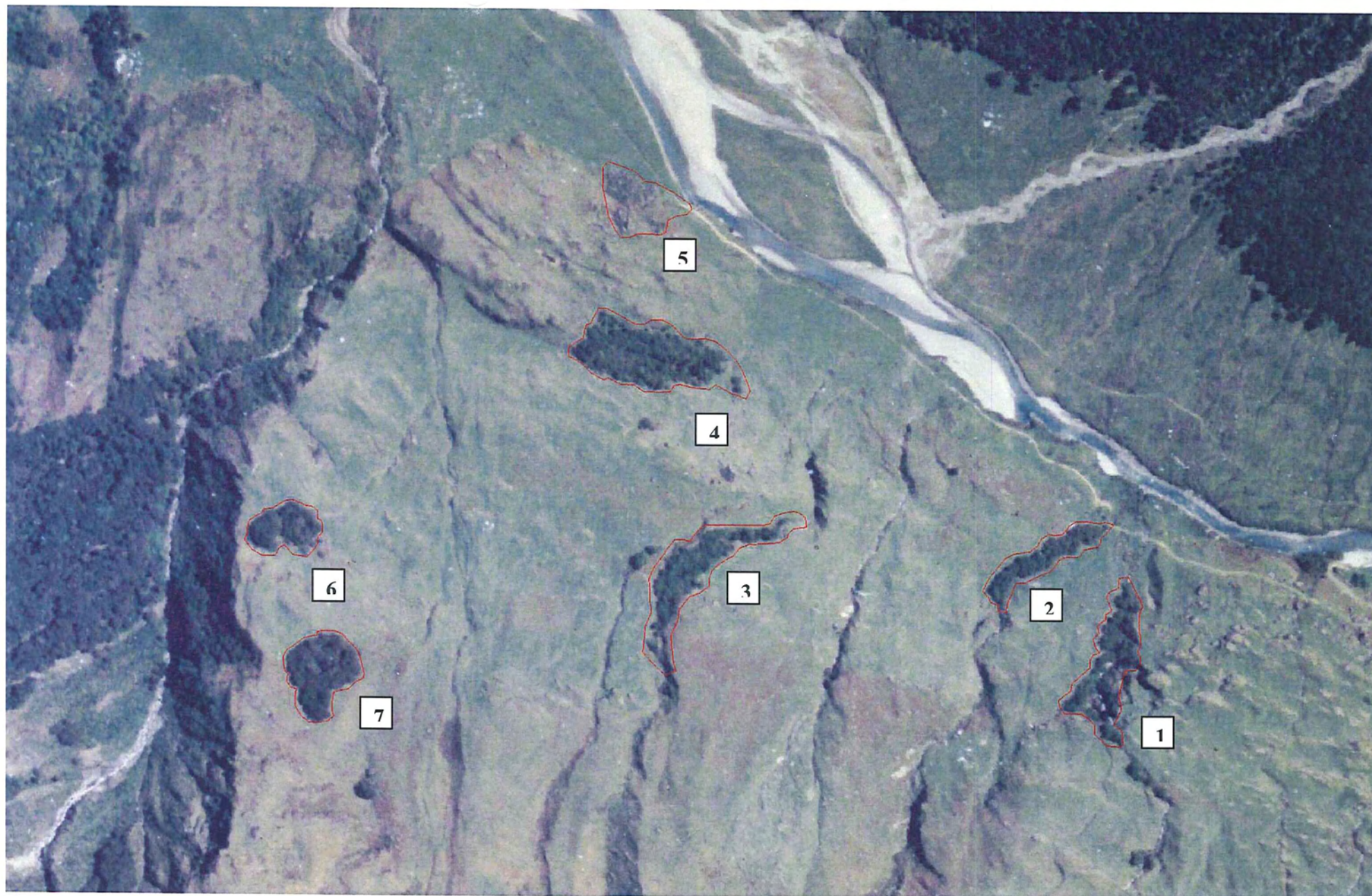
Solicitor for the Minister

COMMISSIONER OF CROWN
LANDS

to

MINISTER OF CONSERVATION

Solicitor
Department of Conservation
DUNEDIN/CHRISTCHURCH



Mt Aspiring Covenant Flats – Areas where clearance native woody vegetation is not permitted.

**Appendix 9: Form of Conservation Covenant Two (CC2) to be Created –
Olearia**

DATED _____

Between

COMMISSIONER OF CROWN LANDS
Pursuant to Section 80 of the Crown Pastoral Land Act 1998

and

MINISTER OF CONSERVATION
("the Minister")

COVENANT UNDER RESERVES ACT 1977
FOR CROWN PASTORAL LAND ACT 1998 PURPOSES



Department of Conservation
Te Papa Atawhai

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

THIS DEED of COVENANT is made the day of

BETWEEN **COMMISSIONER OF CROWN LANDS** acting pursuant to section 80
of the Crown Pastoral Land Act 1998

AND **MINISTER OF CONSERVATION**

BACKGROUND

- A. The Commissioner of Crown Lands is deemed for the purposes of section 77 of the Reserves Act 1977 to be the owner of the Land under section 80(5) of the Crown Pastoral Land Act 1998.
- B. The Land contains certain Values specified in Schedule 1.
- C. The parties agree that the Land should be managed so as to preserve the particular Values specified in Schedule 1, and that such purpose can be achieved without the Minister acquiring a fee simple or leasehold interest in the Land.
- D. An approved plan designating the Land as land over which a Covenant under section 77 of the Reserves Act 1977 is to be created has been registered under section 64 of the Crown Pastoral Land Act 1998.
- E. The Commissioner of Crown Lands has agreed to grant the Minister a Covenant over the Land to preserve the particular Values specified in Schedule 1.

OPERATIVE PARTS

In accordance with section 77 of the Reserves Act 1977, and with the intent that the Covenant run with the Land and bind all subsequent Owners of the Land, the Commissioner of Crown Lands and Minister agree as follows:

1. INTERPRETATION

1.1 In this Covenant unless the context otherwise requires:

- “**Act**” means the Reserves Act 1977.
- “**Covenant**” means this Deed of Covenant made under section 77 of the Act.
- “**Director-General**” means the Director-General of Conservation.
- “**Fence**” includes a gate.
- “**Fire Authority**” means a Fire Authority as defined in the Forest and Rural Fires Act 1977.
- “**Land**” means the land described in Schedule 1.
- “**Minerals**” means any mineral that is a Crown owned mineral under section 2 of the Crown Minerals Act 1991.
- “**Minister**” means the Minister of Conservation.

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

- “Natural Water”** includes water contained in streams the banks of which have, from time to time, been realigned.
- “Owner”** means the person or persons who from time to time is or are registered as the proprietor(s) of the Land.
- “Party” or “Parties”** means either the Minister or the Owner or both.
- “Values”** means any or all of the Land’s natural environment, landscape amenity, wildlife, freshwater life, marine life habitat or historic values as specified in Schedule 1.
- “Working Day”** means the period between any one midnight and the next excluding Saturdays, Sundays, and statutory holidays in the place where the Land is located.

1.2 For avoidance of doubt:

- 1.2.1 the reference to any statute in this Covenant extends to and includes any amendment to or substitution of that statute;
- 1.2.2 clause and other headings are for ease of reference only and are not to be treated as forming any part of the context or to affect the interpretation of this Covenant;
- 1.2.3 words importing the singular number include the plural and vice versa;
- 1.2.4 expressions defined in clause 1.1 bear the defined meaning in the whole of this Covenant including the Background. Where the parties disagree over the interpretation of anything contained in this Covenant and in determining the issue, the parties must have regard to the matters contained in the Background;
- 1.2.5 any obligation not to do anything must be treated to include an obligation not to suffer, permit or cause the thing to be done;
- 1.2.6 words importing one gender include the other gender;
- 1.2.7 the agreements contained in this Covenant bind and benefit the parties and their administrators and executors, successors and assigns in perpetuity;
- 1.2.8 where clauses in this Covenant require further agreement between the parties such agreement must not be unreasonably withheld.

2. OBJECTIVE OF THE COVENANT

- 2.1 The Land must be managed so as to preserve the Values.

3. THE OWNER’S OBLIGATIONS

- 3.1 Unless agreed in writing by the parties, the Owner must not carry out or allow to be carried out on or in relation to the Land:
- 3.1.1 grazing of the Land by livestock;
- 3.1.2 subject to clauses 3.2.1 and 3.2.3, felling, removal or damage of any tree, shrub or other plant;

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

- 3.1.3 the planting of any species of tree, shrub or other plant;
 - 3.1.4 the erection of any Fence, building, structure or other improvement for any purpose;
 - 3.1.5 any burning, chemical spraying, top dressing or sowing of seed;
 - 3.1.6 any cultivation, earth works or other soil disturbances;
 - 3.1.7 any archaeological or other scientific research involving disturbance of the soil;
 - 3.1.8 the damming, diverting or taking of Natural Water;
 - 3.1.9 any action which will cause deterioration in the natural flow, supply, quantity, or quality of water of any stream, river, lake, pond, marsh, or any other water resource affecting the Land;
 - 3.1.10 any other activity which might have an adverse effect on the Values.
 - 3.1.11 any prospecting or mining for Minerals, coal or other deposit or moving or removal of rock of any kind on or under the Land;
 - 3.1.12 the erection of utility transmission lines across the Land.
- 3.2 The Owner must:
- 3.2.1 eradicate or control all weeds and pests on the Land to the extent required by any statute; and in particular comply with the provisions of, and any notices given under, the Biosecurity Act 1993;
 - 3.2.2 if it is safe to do so, assist the Fire Authority to extinguish any wildfire upon or threatening the Land;
 - 3.2.3 keep the Land free from exotic tree species;
 - 3.2.4 keep the Land free from rubbish or other unsightly or offensive material arising from the Owner's use of the Land;
 - 3.2.5 subject to consultation between the Owner and the Minister and observance of any reasonable conditions imposed by the Owner, grant to the Minister or authorised agent of the Minister or any employee of the Director-General, a right of access on to the Land, with or without motor vehicles, machinery, and implements of any kind, to examine and record the condition of the Land, or to carry out protection or maintenance work on the Land, or to ascertain whether the provisions of this Covenant are being observed;
 - 3.2.6 keep all Fences on the boundary of the Land in good order and condition and, notwithstanding clause 3.1.4, rebuild or replace all such Fences when reasonably required except as provided in clause 4.2.

4. THE MINISTER'S OBLIGATIONS

- 4.1 The Minister must have regard to the objective specified in clause 2.1 when considering any requests for approval under this Covenant.

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

- 4.2 The Minister must repair and replace to its former condition any Fence or other improvement on the Land or on its boundary which may have been damaged in the course of the Minister or any person referred to in clause 3.2.5 exercising any of the rights conferred by this Covenant.

5. IMPLEMENTATION OF OBJECTIVES

- 5.1 The Minister may;

- 5.1.1 provide to the Owner technical advice or assistance as may be necessary or desirable to assist in meeting the objectives specified in clause 2.1;
- 5.1.2 prepare, in consultation with the Owner, a joint plan for the management of the Land to implement the objective specified in clause 2.1.

6. DURATION OF COVENANT

- 6.1 This Covenant binds the Minister and Owner in perpetuity to the rights and obligations contained in it.

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

7. OBLIGATIONS ON SALE OF LAND

- 7.1 If the Owner sells, leases, or parts with possession of the Land, the Owner must ensure that the Owner obtains the agreement of the purchaser, lessee, or assignee to comply with the terms of this Covenant, including any agreement by the purchaser, lessee, or assignee to ensure that on any subsequent sale, lease, or assignment, any subsequent purchaser, lessee, or assignee must also comply with the terms of this Covenant including this clause.
- 7.2 If for any reason this Covenant remains unregistered and the Owner fails to obtain the agreement of a purchaser, lessee, or assignee to comply with the terms of this Covenant, the Owner will continue to be liable in damages to the Minister for any breach of the Covenant committed after the Owner has parted with all interest in the Land in respect of which a breach occurs.

8. MISCELLANEOUS MATTERS

8.1 Rights

- 8.1.1 The rights granted by this Covenant are expressly declared to be in the nature of a covenant.

8.2 Trespass Act:

- 8.2.1 Except as provided in this Covenant, the Covenant does not diminish or affect the rights of the Owner to exercise the Owner's rights under the Trespass Act 1980 or any other statute or generally at law or otherwise;
- 8.2.2 For avoidance of doubt these rights may be exercised by the Owner if the Owner reasonably considers that any person has breached the rights and/or restrictions of access conferred by this Covenant.

8.3 Reserves Act

- 8.3.1 Subject to the terms and conditions set out in this Covenant, sections 93 to 105 of the Reserves Act 1977, as far as they are applicable and with the necessary modifications, apply to the Land as if the Land were a reserve.

8.4 Titles

- 8.4.1 This Covenant must be signed by the Commissioner of Crown Lands and the Minister and registered against the Certificate of Title to the Land.

8.5 Acceptance of Covenant

- 8.5.1 The parties agree to be bound by the provisions of this Covenant including during the period prior to the Covenant's registration.

8.6 Fire

- 8.6.1 The Owner must notify, as soon as practicable, the appropriate Fire Authority and the Minister in the event of wild fire threatening the Land;
- 8.6.2 If the Minister is not the appropriate Fire Authority for the Land, the Minister will render assistance to the Fire Authority in suppressing the fire if:
- 8.6.2.1 requested to do so; or

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

- 8.6.2.2 if there is in place between the Minister and the Fire Authority a formalised fire agreement under section 14 of the Forest and Rural Fires Act 1977.

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

9. NOTICES

9.1 A notice to be given under this Covenant by one party to the other is to be in writing and made by personal delivery, by pre-paid post, or by facsimile addressed to the receiving party at the address or facsimile number set out in Schedule 1.

9.2 A notice given in accordance with clause 9.1 will be deemed to have been received:

- (a) in the case of personal delivery, on the date of delivery;
- (b) in the case of pre-paid post, on the third Working Day after posting;
- (c) in the case of facsimile, on the day on which it is dispatched or, if dispatched after 5.00pm, on the next day after the date of dispatch.

9.3 The Owner must notify the Minister of any change of ownership or control of all or part of the Land and must supply the Minister with the name and address of the new owner or person in control.

10. DEFAULT

10.1 Where either the Minister or the Owner breaches any of the terms and conditions contained in this Covenant the other party:

10.1.1 may take such action as may be necessary to remedy the breach or prevent any further damage occurring as a result of the breach; and

10.1.2 will also be entitled to recover from the party responsible for the breach as a debt due all reasonable costs (including solicitor/client costs) incurred by the other party as a result of remedying the breach or preventing the damage.

10.2 Should either the Minister or the Owner become of the reasonable view that the other party (the defaulting party) has defaulted in performance of or observance of its obligations under this Covenant then that party (notifying party) may, by written notice:

10.2.1 advise the defaulting party of the default.

10.2.2 state the action reasonably required of the defaulting party to perform or observe in accordance with this Covenant; and

10.2.3 state a reasonable period within which the defaulting party must take action to remedy the default.

11. DISPUTE RESOLUTION PROCESSES

11.1 If any dispute arises between the Minister and the Owner in connection with this Covenant, the parties must, without prejudice to any other rights they may have under this Covenant, attempt to resolve the dispute by negotiation or other informal dispute resolution technique agreed between the parties.

11.2 Mediation

11.2.1 if the dispute is not capable of resolution by agreement within 14 days of written notice by one party to the other (or such further period as the parties may agree to in writing) either party may refer the dispute to mediation with a mediator agreed between the parties;

11.2.2 if the parties do not agree on a mediator, the President of the local branch of the New Zealand Law Society in the region in which the Land is situated is to appoint the mediator.

11.3 Failure of Mediation

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

- 11.3.1 in the event that the dispute is not resolved by mediation within 2 months of the date of referral to mediation the parties agree that the provisions in the Arbitration Act 1996 will apply;
- 11.3.2 notwithstanding anything to the contrary in the Arbitration Act 1996, if the parties do not agree on the person to be appointed as arbitrator, the appointment is to be made by the President of the local branch of the New Zealand Law Society in the region in which the Land is situated;
- 11.3.3 the parties further agree that the results of arbitration are to be binding upon the parties.

12. JOINT OBLIGATIONS

12.1 The Owner or the Minister may, by mutual agreement, carry out any work or activity or improvements or take any action either jointly or individually to better preserve the Values.

13. SPECIAL CONDITIONS

- 13.1 Special conditions relating to this Covenant are set out in Schedule 2.
- 13.2 The standard conditions contained in this Document must be read subject to any special conditions.

Executed as a Deed

Signed by _____ acting under a _____)
 delegation from the Commissioner of Crown Lands _____)
 deemed pursuant to section 80(5) of the Crown Pastoral)
 Land Act 1998 to be the Owner of the Land for the _____)
 purposes of section 77 of the Reserves Act 1977 _____)
 in the presence of : _____)

Witness: _____

Address : _____

Occupation: _____

Signed by _____ exercising his/her _____)
 powers under section 117 of the Reserves Act 1977 _____)
 as designated Commissioner and acting for and on _____)
 behalf of the Minister of Conservation _____)
 in the presence of : _____)

Witness: _____

Address : _____

Occupation: _____

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

SCHEDULE 1

1. Description of Land

Currently shaded yellow and labelled "CC 2" on the Designations Plan. Area: approx 1ha.

2. Address for Service¹

The address for service (including facsimile number) of the Minister is:

C/- Box 5244
DUNEDIN

C/- 77 Stuart Street Fax (03) 477 8626
DUNEDIN

The address for service (including facsimile number) of the Owner is:

Mt Aspiring Co Ltd, C/- John and Sue Aspinall, P.O. Box 94, Wanaka. (03)

3. Values of Land to be Preserved

Along the Matukituki River West Branch, blocky colluvial fans, comprised of rock from mountain slopes above, occurs intermittently between the junction between the hill slopes and flats.

On one of these fans, opposite the Otago Boys High School bridge is a large population of the threatened tree daisy *Olearia hectorii* (c. 55 trees). *Olearia hectorii* has a threat ranking of 'Nationally Vulnerable'. Taxa in this category are facing a very high risk of extinction in the wild. Nationally the species is subject to increasing modification of its remnant forest habitat by pastoral practices, recent extinction of some populations and lack of natural regeneration opportunities in many habitats (Rogers 1996). The Matukituki Valley is a stronghold for the species in Otago but almost all sites are unprotected and in decline (Thorne 2000). This decline is brought about by the non-replacement of adult trees.

Natural regeneration opportunities are present through ongoing rock fall, flooding, and other disturbance events and tools for enhancing regeneration through the use of herbicides to kill competing grasses, are being developed. This tree is the subject of a draft national recovery plan (Rance in prep.) which promotes the formal protection of its habitat.

¹ State street address not Post Office Box number.

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

SCHEDULE 2

Special Conditions

1. Clause 3.1.1 is deleted. The Owner may graze those parts of the land not fenced to prevent grazing.
2. Clause 3.1.3 is deleted. The Owner must not plant any species of tree or shrub plant except local native plants as identified in Schedule 3.
3. Clause 7.2 is deleted.
4. This Covenant provides freedom of access to the public for the appreciation of natural values.
5. The Owner will allow the public the right of access to the Land from the nearby public road.
6. This document is to be read in conjunction with the Management Prescription Document Schedule 3.

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

GRANT of

Correct for the purposes of the
Land Transfer Act 1952

**COVENANT UNDER
SECTION 77 OF THE
RESERVES ACT 1977 FOR
CROWN PASTORAL LAND ACT 1998 PURPOSES**

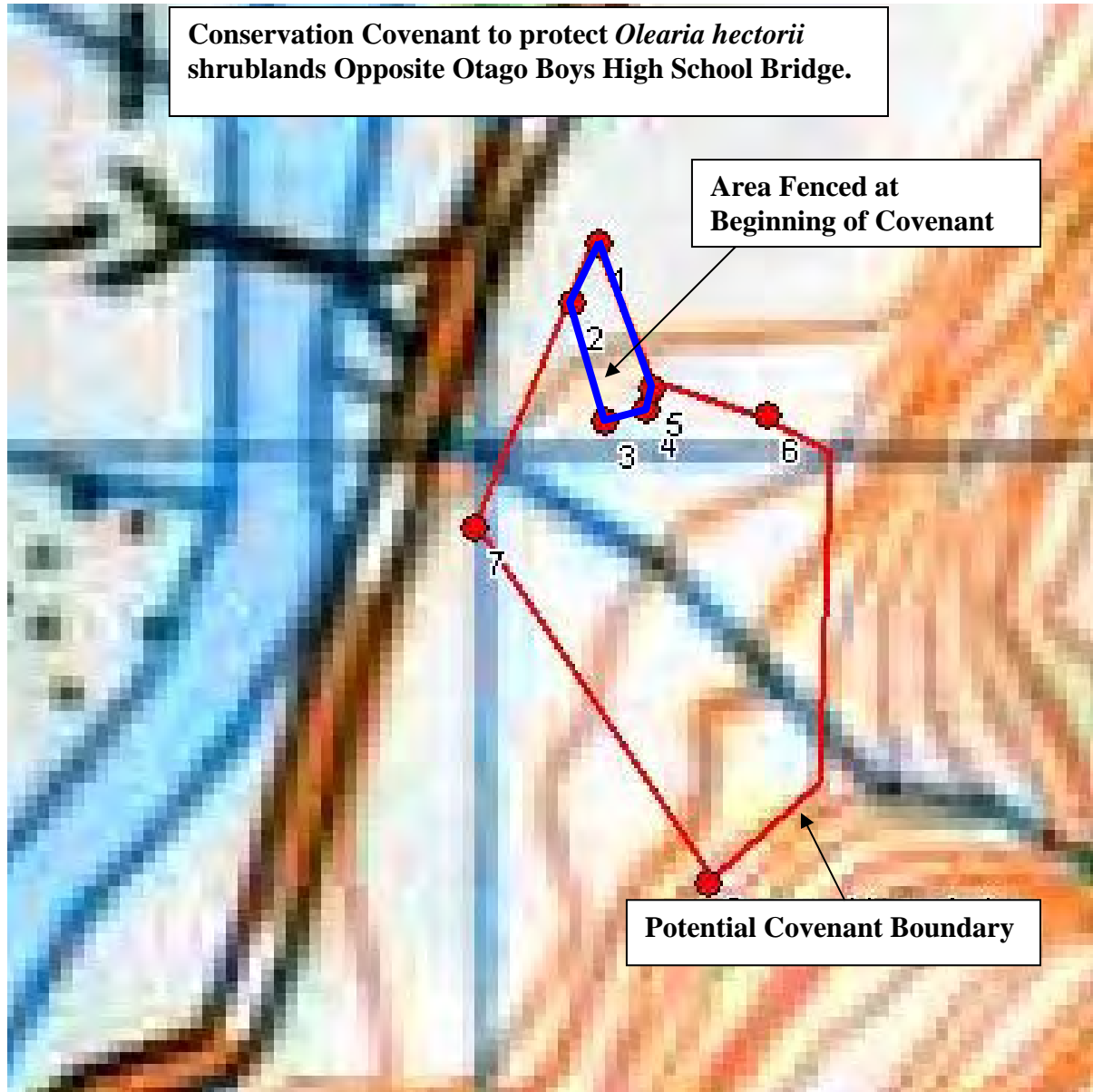
Solicitor for the Minister

**COMMISSIONER OF CROWN
LANDS**

to

MINISTER OF CONSERVATION

**Solicitor
Department of Conservation
DUNEDIN/CHRISTCHURCH**



If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

SCHEDULE 3

MANAGEMENT PRESCRIPTION DOCUMENT FOR MT ASPIRING STATION OLEARIA COVENANT

As this covenant is for the restoration of vegetation and may use methods that could be modified over time, a management prescription document provides the flexibility to meet changing goals. A management prescription in the covenant conditions provides, over the full term:

1. The specific goals of management of the land consistent with the purpose of the covenant.
2. A description of how the goals are to be met.
3. A detailed description of the type and condition of conservation resources at the commencement of the covenant.
4. A description of the vegetation restoration programme to be carried out.

This management prescription document shall apply until it is reviewed ten years from the date of commencement of the covenant and every ten years thereafter.

1. **The goal of the covenant is to achieve the protection of *Olearia hectorii* and associated shrublands. Public access will be encouraged.**

(a) Vegetation

To manage the vegetation within the covenant area in order to maintain and enhance the population of *Olearia hectorii* and other native shrub and tree species. The areas which, for the time being are not subject to a restoration programme or are outside the active programme may be grazed.

(b) Recreation

To encourage the public to visit and learn about *Olearia hectorii*.

2. **A description of how the goals are to be met.**

(a) The goals are to be met through fencing and manipulation of the covenant area.

The boundaries of the covenant reflect good reserve design for the long term (i.e. covenant is of sufficient size and of compact configuration) but management within the covenant may occur on an incremental basis recognising the limited resourcing and capacity of the Minister. In that way, land within the covenant boundaries not under active restoration, may continue to be grazed until restoration begins. The extent and timing of such restoration (and retirement of grazing) would be through agreement of the parties.

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

Fencing of the whole covenant area is planned from the beginning. The plan is to move outwards an internal subdivision fence as restoration progresses, thus providing protection new plantings from stock browsing. The Minister will pay for fencing costs.

This programme will require regular liaison between the Owner and the Minister.

- (b) Appropriate interpretation signage will be erected and styles will be placed to provide easy public access.

3. **A detailed description of the type and condition of conservation resources at the commencement of the covenant.**

A population of about 55 mainly mature *Olearia hectorii* trees occurs within the covenant area along with a small range of associated native shrubs.

Within an existing small fenced area DOC have been carrying out *Olearia* recruitment trials . This has involved grass suppression by herbicides and while this has not led to recruitment of *Olearia hectorii* seedlings within the enclosure, there has been recruitment of some associated species such as *Coprosma propinqua* and *Pittosporum tenuifolium*.

4. **A description of the vegetation restoration programme to be carried out.**

Both the owner and the Minister may plant trees and shrubs with the aim of reconstructing the *Olearia hectorii* community complete with commonly associated species. These species may include lowland ribbonwood (*Plagianthus regius*), kohuhu (*Pittosporum tenuifolium*), broadleaf (*Griselinia littoralis*), *Coprosma propinqua*, *C. rugosa*, *Podocarpus hallii*, *Corokia cotoneaster*, *Olearia avicenniifolia*, manuka (*Leptospermum scoparium*) and, mountain wineberry (*Aristotelia fruticosa*). Additional species may be planted only on agreement between the parties.

Previous herbicide trials are part of a much wider experiment which is leading to a greater understanding of the recruitment requirements of *O. hectorii*. Irrespective of whether the grass suppression/herbicide trials continue, nursery-raised *O. hectorii* saplings can be planted within the covenant to ensure some augmentation of the existing trees.

Other methods of enhancing *O. hectorii* recruitment may also be trialled on agreement between the parties.

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

Appendix 10: Form of Easement to Convey Water and for Management Purposes to be Created – v-w and Z

TRANSFER GRANT OF EASEMENT

1. Easement to Convey Water
2. Easement for Management Purposes

Land Transfer Act 1952

This page does not form part of the Transfer.

TRANSFER

Land Transfer Act 1952

If there is not enough space in any of the panels below, cross-reference to and use the approved Annexure Schedule: no other format will be received.

Land Registration District

Otago

Certificate of Title No. All or Part? Area and legal description – *Insert only when part or Stratum, CT*

--	--	--	--

Transferor Surnames must be underlined

COMMISSIONER OF CROWN LANDS, acting pursuant to section 80 of the Crown Pastoral Land Act 1998

Transferee Surnames must be underlined

HER MAJESTY THE QUEEN, acting by and through the Minister of Conservation

Estate or Interest or Easement to be created: *Insert e.g. Fee simple; Leasehold in Lease No.; Right of way etc.*

Management Purposes Easement in Gross under section 7(2) of the Conservation Act 1987 and Easement to Convey Water (continued on pages 2, 3 and 4 of Annexure Schedule).

The various considerations set out in a substantive proposal accepted under the Crown Pastoral Land Act 1998 on the day of

Operative Clause

The Transferor, being the registered proprietor of the servient land, grants to the Transferee an easement to convey water with the rights and powers or provision set out in the Annexure schedules.

Dated this day of

Attestation

<p>Signed by acting under written delegation from the Commissioner of Crown Lands</p>	<p>Signed in my presence by the Transferor Signature of Witness</p> <p>_____ (continued on page 4 of Annexure Schedule)</p> <p>Witness to complete in BLOCK letters (unless typewritten or legibly stamped)</p> <p>Witness name</p> <p>Occupation</p> <p>Address</p>
<p>Signature, or common seal of Transferor</p>	

Certified correct for the purposes of the Land Transfer Act 1952

Approved by Register-General of Land under No. 1995/5003
Annexure Schedule

Insert below
"Mortgage", "Transfer", "Lease", etc

[] Dated [] Page [] of [] Pages

Definitions

1. In this transfer unless the context otherwise requires:

1.1 "Easement Area" means that part of the Servient Land being [3] metres wide which is marked ("v-w" on the Designations Plan) to convey water and marked ("E" on the Designations Plan) for management purposes on S.O. Plan No [].

JHa
sha

1.2 "Management Purposes" means:

- the protection of a significant inherent value of the land managed by the Transferee (not being a member of the public), in the vicinity of the easement area.
- The management of the land administered by the Transferee (not being a member of the public) in a way that is ecologically sustainable.

1.3 "Servient Land" means the land owned by the Transferor and described on page 1.

1.4 "Transferee" means Her Majesty the Queen acting by and through the Minister of Conservation.

1.5 "Transferor" means the owner of the Servient Land described on page 1 and includes the Transferor's tenants and invitees.

Standard Easement Terms

Schedules

2. Unless otherwise provided in this document, the rights and powers implied in the specific classes of easement are those prescribed by the Land Transfer Regulations 2002 and/or the fifth Schedule of the Property Law Act 2007.

Term

3. The easement created by this transfer is to be in perpetuity.

Dispute Resolution

4.1 If a dispute arises between the Transferor and Transferee concerning the rights, management and operation created by this transfer the parties are to enter into negotiations in good faith to resolve it.

4.2 If the dispute is not resolved within 14 days of written notice by one party to the other it is to be referred to mediation.

4.3 If the dispute is not resolved within 21 days or such other period as agreed to in writing between the parties after the appointment of the mediator, the parties must submit to the arbitration of an

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

OTACO-37213 - Easement in gross Template-
docDM-239021 - Mt Aspiring - DoC Management Purposes Easement to convey water 9 July 2008

independent arbitrator appointed jointly by the parties or, if one cannot be agreed within 14 days, to an independent arbitrator appointed by the President for the time being of the District Law Society in which the Servient Land is situated.

- 4.4 The arbitration is to be determined in accordance with the Arbitration Act 1996 and its amendments or any enactment passed in substitution.

Notice

- 5.1 A notice to be given under this transfer by one party to the other is to be in writing and must:
- (a) be hand delivered to the receiving party; or
 - (b) be sent by ordinary post to the receiving party;
 - (c) be sent by facsimile to the receiving party.
- 5.2 If clause 5.1(b) applies the notice will be deemed to be received by the receiving party on such date on which the ordinary post would be delivered.
- 5.3 If clause 5.1(c) applies the notice will be deemed to have been received on the day on which it is dispatched or, if dispatched after 5.00pm, on the next day after the date of dispatch.

Special Easement Terms

- 6.1 The standard easement terms contained above must be read subject to any special easement terms set out below.
- 6.2 The Transferee including its tenants, agents, contractors, and licensees; and any employee or contractor of the Director-General of Conservation, may lay and maintain a water pipeline across the Servient land.
- 6.3 The Transferee has the right to use whatever means of access she thinks fit to carry out the works in clause 6.2 above.
- 6.4 The Transferee including its tenants, agents, contractors, and licensees; and any employee or contractor of the Director-General of Conservation, has the right to take vehicles, plant, machinery and land helicopters on the Easement Area marked "z" on the Designations Plan.

Continuation of "Attestation"

Signed for and on behalf of)
Her Majesty the Queen by)

under a written delegation in the)
presence of:)

Witness (Signature)

Name _____

Address _____

Occupation _____

Footnote: In substitution of the SO Plan (which has yet to be prepared), the proposed easement described in clause 1 is marked on the Plan.

Approved by Registrar-General
of Land under No. 1995/1004

TRANSFER GRANT OF EASEMENT IN GROSS

1. Right to Convey Water

Land Transfer Act 1952

Law Firm Acting

Conservancy Solicitor
Department of Conservation
Dunedin

Auckland District Law Society
REF:4135

This page is for Land Registry Office use only.
(except for "Law Firm Acting")

Appendix 11: Form of Public and Management Purposes Easement to be Created – a-b, c-d, e-f, c-g, h-i, h1-h2, j-k, l-m, n-o, p-q, r-s, t-u and x-y

TRANSFER GRANT OF EASEMENT IN GROSS

1. Public Access
2. Access for Management Purposes

Land Transfer Act 1952

This page does not form part of the Transfer.

TRANSFER

Land Transfer Act 1952

If there is not enough space in any of the panels below, cross-reference to and use the approved Annexure Schedule: no other format will be received.

Land Registration District

OTAGO

Certificate of Title No. All or Part? Area and legal description – *Insert only when part or Stratum, CT*

--	--	--	--

Transferor Surnames must be underlined

COMMISSIONER OF CROWN LANDS, acting pursuant to section 80 of the Crown Pastoral Land Act 1998

Transferee Surnames must be underlined

HER MAJESTY THE QUEEN, acting by and through the Minister of Conservation

Estate or Interest or Easement to be created: *Insert e.g. Fee simple; Leasehold in Lease No.; Right of way etc.*

Public Access and Management Purposes Easement in Gross under section 7(2) of the Conservation Act 1987 (continued on pages 2, 3 and 4 of Annexure Schedule).

The various considerations set out in a substantive proposal accepted under the Crown Pastoral Land Act 1998 on the _____ day of _____

Operative Clause

For the above consideration (receipt of which is acknowledged) the TRANSFEROR TRANSFERS to the TRANSFEE all the transferor's estate and interest in the land in the above Certificate(s) of Title and if an easement is described above such is granted or created.

Dated this _____ day of _____

Attestation

Signed by acting under written delegation from the Commissioner of Crown Lands	Signed in my presence by the Transferor Signature of Witness Witness to complete in BLOCK letters <i>(unless typewritten or legibly stamped)</i> Witness name Occupation Address	(continued on page 4 of Annexure Schedule)
	Signature, or common seal of Transferor	

Certified correct for the purposes of the Land Transfer Act 1952

Certified that no conveyance duty is payable by virtue of Section 24(1) of the Stamp and cheque Duties Act 1971.
(DELETE INAPPLICABLE CERTIFICATE)

Solicitor for the Transferee

Approved by Register-General of Land under No. 1995/5003
Annexure Schedule

Insert below
"Mortgage", "Transfer", "Lease", etc

Dated

Page of Pages

Definitions

1. In this transfer unless the context otherwise requires:

1.1 "Easement Area" means:

- that part of the Servient Land being 10 metres wide, "a-b", "c-d", "e-f", "c-g", "h-i", "h1-h2" and "x-y" with an area available for car parking at "b";
- that part of the Servient Land being 20 metres wide, "j-k" where vehicle access for management purposes is provided by the existing 4WD track, and 10 metres wide where the existing track provides walking access only;
- that part of the Servient Land being 20 metres wide "l-m", "p-q", "r-s" and "t-u"; and
- that part of the Servient Land being 10 metres wide "n-o".

as (shown on the designations plan) and marked [] "[]" on S.O. Plan No []

1.2 "Management Purposes" means:

- the protection of a significant inherent value of the land managed by the Transferee (not being a member of the public), in the vicinity of the easement area.
- The management of the land administered by the Transferee (not being a member of the public) in a way that is-ecologically sustainable.

1.3 "Servient Land" means the land owned by the Transferor and described on page 1.

1.4 "Transferee" means Her Majesty the Queen acting by and through the Minister of Conservation and, for purposes of clause 2.1, includes the Transferee's tenants, agents, contractors, and licensees; and any employee or contractor of the Director-General of Conservation; and any member of the public; but for the purposes of clause 2.2 means the Transferee's tenants, agents, contractors, and invitees; and any employee or contractor of the Director-General of Conservation only.

1.5 "Transferor" means the owner of the Servient Land described on page 1 and includes the Transferor's tenants and invitees.

Standard Easement Terms

Access

2. The Transferee has the right:

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

- 2.1 In common with the Transferor to pass and re-pass at any time over and along the Easement Area on foot, on or accompanied by horses, or by non-motorised vehicle powered by a person or persons.
- 2.2 To pass and re-pass at any time over and along the Easement on foot, or on or accompanied by horses, or by motor vehicle, with or without machinery and implements of any kind, or with or without guns and dogs, for Management Purposes.
3. The Transferor must keep the Easement Area clear at all times of obstructions whether caused by parked vehicles, deposit of materials or unreasonable impediment to the use and enjoyment of the Easement Area, where such event or outcome is caused by or under the control of the Transferor.
4. The Transferee must take all reasonable care to avoid damage to the soil and vegetation of the Easement Area and, in particular, avoid using the Easement Area when conditions such as softening during frost thaw render the Easement Area vulnerable to damage.

Exclusion of Schedules

5. The rights and powers contained in Schedule 4 of the Land Transfer Regulations 2002 and the Fifth Schedule of the Property Law Act 2007 are expressly negated.

Term

6. The easement created by this transfer is to be in perpetuity.

Temporary Suspension

7. The Transferee (not being a member of the Public) may, at any time in exercise of her/his powers, temporarily close all or part of the Easement Area for such period as she/he considers necessary.

Dispute Resolution

- 8.1 If a dispute arises between the Transferor and Transferee (not being a member of the Public) concerning the rights, management and operation created by this transfer the parties are to enter into negotiations in good faith to resolve it.
- 8.2 If the dispute is not resolved within 14 days of written notice by one party to the other it is to be referred to mediation.
- 8.3 If the dispute is not resolved within 21 days or such other period as agreed to in writing between the parties after the appointment of the mediator, the parties must submit to the arbitration of an independent arbitrator appointed jointly by the parties or, if one cannot be agreed within 14 days, to an independent arbitrator appointed by the President of the local branch of the New Zealand Law Society in which the Servient Land is situated.
- 8.4 The arbitration is to be determined in accordance with the Arbitration Act 1996 and its amendments or any enactment passed in substitution.

Notice

- 9.1 A notice to be given under this transfer by one party to the other is to be in writing and must:
 - (a) be hand delivered to the receiving party; or
 - (b) be sent by ordinary post to the receiving party;
 - (c) be sent by facsimile to the receiving party.

- 9.2 If clause 9.1(b) applies the notice will be deemed to be received by the receiving party on such date on which the ordinary post would be delivered.
- 9.3 If clause 9.1(c) applies the notice will be deemed to have been received on the day on which it is dispatched or, if dispatched after 5.00pm, on the next day after the date of dispatch.

Special Easement Terms

- 10 The standard easement terms contained above must be read subject to any special easement terms set out below.
- 10.1 The Transferor is under no obligation to maintain the Easement Areas to any standard other than that which is necessary for his own purposes.
- 10.2 The Transferee to take all reasonable care to avoid damage to the soil and vegetation of the Easement Area.
- 10.3 The public have the right to carry guns on the easement when holding a hunting permit for adjoining Conservation land /National Park. For the avoidance of doubt, no dogs are permitted on the Easement Area.
- 10.4 For the following conditions, the Transferee is defined as the Director-General of Conservation's tenants, agents, contractors, and invitees; and any employee or contractor, only.
- 10.4.1 The Transferee has the right:
- (a) To mark the Easement Area as appropriate.
 - (b) To erect and maintain stiles.
 - (c) To erect and maintain signs informing the public
 - (i) of the location of land managed by the Crown and available for public access and recreation; and
 - (ii) of their rights and responsibilities in relation to the Easement Area.
 - (d) To clear, form and maintain any track or path no wider than 3 metres within the easement area.
 - (e) To use whatever reasonable means of access she thinks fit over the Easement Area to carry out the works in clause 10.4.1.
- 10.5 Clause 2.1 is modified to allow the public non motorised vehicle access from "a-b", "c-d", "c-g", "h-i", "h1-h2", "j-k" and "x-y" only. Public vehicle access is permitted on "a-b". Reference to horse access is deleted.
- 10.6 The Transferee and the Transferor shall pay agreed maintenance on tracks proportional to the impact of their use.
- 10.7 The Minister will close easement routes "l-m", "p-q", and "t-u" to allow for lambing for a period of 3 weeks from mid October. The Minister has the right to review the closure of route "t-u" at any time after the easement has been in place 10 years. If demand for access is deemed by the Minister to be sufficient, he may choose not to close this easement

- 10.8 The Transferee acknowledges that it will not issue concessions under the Conservation Act 1987 for commercial activity on the Easement Area.
- 10.9 The Transferor acknowledges that concessionaires and their clients are permitted, pursuant to the terms of this easement, to gain access over the Easement Area as a member of the public.
- 10.10 If the Transferee is accompanied by a dog a current sheep measles certificate must be produced on request of the Transferor.
- 10.11 For the avoidance of doubt, this Easement agreement does not give the Transferee any right to discharge a firearm on or across the Easement Area.

Continuation of "Attestation"

Signed for and on behalf of)
 Her Majesty the Queen by)
 under a written delegation in the)
 presence of:)

 Witness (Signature)

Name _____

Address _____

Occupation _____

Footnote: In substitution of the SO Plan (which has yet to be prepared), the proposed easement described in clause 1 is marked on the Plan.

Approved by Registrar-General
of Land under No. 1995/1004

TRANSFER GRANT OF EASEMENT IN GROSS

1. Public Access
2. Management Purposes

Land Transfer Act 1952

Law Firm Acting
Conservancy Solicitor Department of Conservation Dunedin

Auckland District Law Society
REF:4135

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(except for "Law Firm Acting")

Execution Section

This Proposal (including the schedules and appendices) is signed by the Commissioner and the Holder as a binding agreement.

SIGNED by the **Commissioner of Crown Lands** pursuant to the Crown Pastoral Land Act 1998 in the presence of:

Witness

Occupation

Address

SIGNED by [the Holder] in the presence of:

Witness

Occupation

Address

OR

SIGNED for and on behalf of [the Holder] by two of its directors:

[name of director]

[name of director]